

STATE BOARD OF EDUCATION

STATE OF GEORGIA

KEENE WALKER,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2005-63
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by Keene Walker (Appellant) from the May 10, 2005, decision by the Fulton County Board of Education (Local Board) to suspend him with pay for ten days and without pay for the remainder of the 2004-2005 school year after finding him guilty of inciting or encouraging his students to stage a protest and disrupt the operation of the school in violation of O.C.G.A. § 20-2-940(a)(5). Appellant claims that he was improperly suspended by his principal, that the Local Superintendent improperly charged him, and that there was no evidence that he encouraged his students to stage a protest. The Local Board’s decision is sustained.

The Local Board employed Appellant as a high school science teacher for the 2004-2005 school year but decided not to renew his teaching contract for the following year. On Tuesday, April 26, 2005, Appellant’s principal obtained an email, which appeared to have been prepared by Appellant, that called the principal a tyrant and said that the writer would work to have the principal dismissed. The principal, upon advice from the central office, told Appellant not to report to work on April 27, 2005, because an investigation was being performed regarding Appellant’s activities to undermine the principal after receiving notice that his teaching contract would not be renewed. The principal also told Appellant that someone from the central office would be contacting him. Despite the principal’s direction, Appellant returned to the school the next day and went to his classroom. He claimed that he returned to the school upon the advice of his attorney to obtain a written notice of the reasons why he was being suspended. The principal learned that Appellant was in the building and sent an assistant principal to Appellant’s classroom. The assistant principal found Appellant, whose first period was a planning period, in his classroom with approximately 40 students in the room who were supposed to be in other classes taking end-of-year tests.

The assistant principal asked Appellant to accompany him to the principal’s office, but Appellant told him to wait. Appellant then took out a cellular telephone and called his union representative. The conversation became extensive and the assistant principal called a resource officer to escort Appellant to the principal’s office. The

resource officer came and Appellant accompanied him to the principal's office. The students in Appellant's classroom then began to stage a demonstration in the hallways. They then left the building after being asked to move outside and avoid disrupting the students who were taking their tests. The following day, a group of students left the school and marched from the school to the Local Board's offices to protest Appellant's termination.

Because Appellant did not tell the students who entered his classroom to return to their classes and participate in taking their end-of-year tests, the Local Superintendent charged him with inciting, encouraging, or counseling students to violate any valid state law, municipal ordinance, or policy or rule of the local board of education under the provisions of O.C.G.A. § 20-2-940(a)(5) and recommended Appellant's suspension without pay. A hearing on the charges was held before a tribunal appointed by the Local Board.

The tribunal found Appellant guilty of the charges and recommended a ten-day suspension with pay followed by a suspension for the remainder of the year without pay. The Local Board adopted the tribunal's recommendation and Appellant then filed an appeal to the State Board of Education.

Appellant first claims that the principal did not have any authority to tell him to stay at home on April 27, 2005, because O.C.G.A. § 20-2-940(g) requires the Local Superintendent to provide written notice before a teacher is relieved from duty. While Appellant is correct in noting that a written notice is required before a teacher is suspended from duty, this claim has nothing to do with the charges made against Appellant; he was not charged with insubordination because he disobeyed the principal's directive.¹ Instead, Appellant was charged with disrupting the operation of the school by permitting students to assemble in his classroom when they were supposed to be in other classes taking end-of-year tests.

Appellant next claims that the Local Superintendent improperly quoted O.C.G.A. § 20-2-940(a)(5) in his letter of suspension by stating that Appellant encouraged his students "to disrupt the orderly administration of the school." This claim is without merit. The Local Superintendent's statement, which was followed by a reference to O.C.G.A. § 20-2-940(a)(5), merely illustrated how Appellant violated the statute. The Local Superintendent did not improperly change the statute to suit the circumstances, as charged by Appellant.

Appellant's final claim is that there was no evidence that he incited his students to disrupt the school. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the

¹ The Local Board claims that the written notice would have been issued on April 27, 2005, by the Local Superintendent if circumstances warranted a suspension when Appellant met with the central office personnel. Whether this procedure was proper is immaterial to the charge that Appellant incited his students to disrupt the school.

local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). There was evidence from which the tribunal could find that Appellant was actively engaged in attempting to undermine the school administration, that Appellant failed to tell the students to return to their rooms and take their tests, thus encouraging them in their protest, which disrupted the school. The State Board of Education thus concludes that there was some evidence to support the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision, the Local Board's decision was not arbitrary or capricious, and that Appellant was afforded due process. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of September 2005.

William Bradley Bryant
Vice Chairman for Appeals